CED 4.7 2007

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

3	EP 1/ 2007	
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JAMES MADISON MCCAULEY,)		
)	Civil Action No. 7:07cv00244	
Plaintiff,)		
)	<u>ORDER</u>	
)		
GENE JOHNSON, et al.,)	By: Hon. James C. Turk	
)	Senior United States District Judge	
Defendants.)	_	

In accordance with the Memorandum Opinion entered this day, it is hereby

ADJUDGED AND ORDERED

that Plaintiff's Motion to Strike (Dkt. No. 32) is **DENIED** as **MOOT** and will be **DISMISSED**; Defendants Johnson, Schilling, and Bassett's Motion for Summary Judgment (Dkt. No. 20) is **GRANTED**; Defendant Gilbert's Motion for Summary Judgment (Dkt. No. 23) is **GRANTED** as to Plaintiff's claim concerning the delay in extracting his lower teeth but **DENIED** as to the claim that Plaintiff is not being provided with lower dentures. Accordingly, the latter claim against Gilbert shall go forward and Gilbert is hereby **DIRECTED** to file within twenty (20) days from entry of this Order an Answer and any supplemental Motion for Summary Judgment, supported by affidavit(s), addressing issues including, but not limited to, the following:

- (A) McCauley's allegation that he is currently being denied lower dentures;
- (B) Whether McCauley's lack of lower dentures constitutes a serious medical need;
- (C) Whether McCauley was ever evaluated for lower dentures and whether he was included in the group of inmates to be issued dentures when they become available;

(D) Whether McCauley requested and/or was provided a soft food diet.

After Gilbert files a response on this issue, McCauley will be given ten (10) days to file a reply on the matter.

The Clerk of the Court is directed to send a copy of this Order and Memorandum Opinion to Plaintiff and to counsel of record for the Defendants.

ENTER: This __/16w day of September, 2007.

Senior United States District Judge